

State of South Dakota

SEVENTY-FIFTH SESSION LEGISLATIVE ASSEMBLY, 2000

777D0363

SENATE ENGROSSED NO. **SB141** - 2/11/00

Introduced by: Senators Whiting, Albers, Brosz, Brown (Arnold), Daugaard, Duxbury,
Flowers, Lawler, and Madden and Representatives Michels, Fischer-Clemens,
Haley, Hunt, Lucas, Smidt, and Wilson

1 FOR AN ACT ENTITLED, An Act to establish the South Dakota Corrections Committee and
2 a monitor within the juvenile corrections system.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 26-11A be amended by adding thereto a NEW SECTION to read
5 as follows:

6 Terms used in this chapter mean:

- 7 (1) "Abuse," any act or failure to act by an employee of a juvenile corrections facility or
8 by a contract person or entity providing services to a juvenile corrections facility,
9 which act was performed or was failed to be performed, knowingly, recklessly, or
10 intentionally, and which caused, or may have caused, injury or death to an individual
11 in the custody or care of a juvenile corrections facility;
- 12 (2) "Monitor," the person or entity designated by the Governor to protect the legal rights
13 of individuals in the custody or care of juvenile corrections facilities;
- 14 (3) "Juvenile corrections facility," all juvenile correctional facilities established and
15 maintained in accordance with § 26-11A-1;
- 16 (4) "Individual in the custody or care of a juvenile corrections facility," an individual who:

1 (a) Is in the process of being admitted to a juvenile corrections facility, including
2 an individual who is being transported to such a facility; or

3 (b) Is involuntarily confined in a juvenile corrections facility;

4 (5) "Neglect," a negligent act or omission by any individual responsible for providing
5 custody, care, or services in a juvenile corrections facility which caused or may have
6 caused injury or death to an individual in the care or custody of a juvenile corrections
7 facility or which placed such individual at undue risk of injury or death;

8 (6) "Records," reports prepared or received by any staff of a juvenile corrections facility,
9 or reports prepared by an entity or staff person charged with investigating reports of
10 incidents of abuse or neglect, injury or death occurring at such facility that describes
11 incidents of abuse, neglect, injury, or death occurring at such facility and the steps
12 taken to investigate such incident.

13 Section 2. The Governor shall designate a person or entity to serve as the monitor and whose
14 primary responsibility is to protect the rights of individuals in the custody or care of juvenile
15 corrections facilities. Such person or entity shall be independent of the Department of
16 Corrections and shall be administered by the Department of Human Services, office of the
17 secretary.

18 Section 3. Any allegation of abuse and neglect of individuals within the juvenile corrections
19 facilities received by the Office of the Governor, the Department of Corrections, or other
20 agencies of the executive branch shall be promptly reported in writing to the monitor.

21 Section 4. The monitor created in section 2 of this Act may:

22 (1) Investigate incidents of abuse or neglect of such individuals within the juvenile
23 corrections facilities, if the incidents are reported to the monitor or if there is probable
24 cause to believe that the incidents occurred;

- 1 (2) Access any individual in the custody or care of juvenile corrections facilities and any
2 employee in the employ of the State of South Dakota or any of its political
3 subdivisions;
- 4 (3) Access any records of or relating to any individual in the custody or care of juvenile
5 facilities;
- 6 (4) Provide an annual report to the Governor, the Legislature, the Corrections
7 Commission established by § 1-15-1.13, the secretary of the Department of Human
8 Services, and the secretary of the Department of Corrections. The report shall contain
9 the activities of the monitor for the fiscal year immediately prior to the report.
10 Activities shall reflect the number of referrals to the monitor, the number of
11 investigations completed, results of the investigations, corrective actions taken, and
12 a summary of other activities performed by the monitor;
- 13 (5) Provide training and assistance to employees of the Department of Corrections in
14 areas within the scope of the monitor's position.
- 15 (6) Review Department of Corrections' policies dealing with juvenile's rights to ensure
16 compliance with federal and state laws, rules, and policy.

17 Section 5. It shall be the responsibility of the monitor to report immediately, in writing, any
18 findings of abuse or neglect in a juvenile corrections facility to the secretary of the Department
19 of Corrections and the Governor and to state in the report the facts found by the monitor and
20 the names of any individuals who perpetrated the abuse or neglect.

21 Section 6. There is hereby created the South Dakota Corrections Committee to make a
22 continuing study of the operation of the state's correctional system.

23 Section 7. The Corrections Committee shall consist of five members of the House of
24 Representatives to be appointed by the Speaker of the House of Representatives and five
25 members of the Senate to be appointed by the President Pro Tempore. The members of the

1 corrections committee shall be appointed biennially for terms expiring on January first of each
2 succeeding odd-numbered year and shall serve until their respective successors are appointed and
3 qualified. No more than three from each legislative body may be from the same political party.

4 Section 8. The Corrections Committee shall select a chair and vice chair and shall be
5 provided with staff assistance from the Legislative Research Council.

6 Section 9. The Corrections Committee shall review and act upon all proposed legislation
7 regarding the establishment and operation of the state's corrections system.

8 Section 10. The Department of Corrections or such other executive branch agency as the
9 Governor may direct shall, on or before December 1, 2000, submit to the Corrections Committee
10 of the Legislature a report and recommendation regarding the desirability and feasibility of the
11 Department of Corrections seeking American Correctional Association accreditation of all
12 juvenile corrections facilities under the direction of the Governor.

13 Section 11. For purposes of any audit, report, evaluation, or public testimony that may be
14 permitted or required under this Act, no disclosure of the identity of any individual shall be
15 required where otherwise prohibited by law.

1 **BILL HISTORY**

2 1/19/00 First read in Senate and referred to Judiciary. S.J. 119

3 1/20/00 Senate Referred to State Affairs. S.J. 131

4 2/6/00 Scheduled for Committee hearing on this date.

5 2/7/00 Scheduled for Committee hearing on this date.

6 2/7/00 Deferred by Chair.

7 2/9/00 Scheduled for Committee hearing on this date.

8 2/9/00 State Affairs Do Pass Amended, Passed, AYES 9, NAYS 0. S.J. 369

9 2/10/00 Motion to Amend, Passed. S.J. 423

10 2/10/00 Motion to Amend, Passed. S.J. 423

11 2/10/00 Senate Do Pass Amended, Passed, AYES 29, NAYS 5. S.J. 423